

Senate File 2309

S-5040

1 Amend Senate File 2309 as follows:

2 1. By striking everything after the enacting clause
3 and inserting:

4 <Section 1. Section 902.1, subsection 2, Code 2014,
5 is amended by striking the subsection and inserting in
6 lieu thereof the following:

7 2. a. Notwithstanding subsection 1, a person
8 convicted of murder in the first degree in violation of
9 section 707.2, who was under the age of eighteen at the
10 time the offense was committed shall receive one of the
11 following sentences:

12 (1) Commitment into the custody of the director
13 of the department of corrections for the rest of the
14 defendant's life with no possibility of parole unless
15 the governor commutes the sentence to a term of years.

16 (2) (a) Commitment into the custody of the
17 director of the department of corrections for the
18 rest of the defendant's life with the possibility of
19 parole after serving a minimum term of confinement of
20 thirty-five years.

21 (b) Earned time shall not reduce the mandatory
22 minimum term of confinement under this subparagraph.

23 b. (1) The prosecuting attorney shall provide
24 reasonable notice to the defendant, after conviction
25 and prior to sentencing, of the state's intention to
26 seek a life sentence with no possibility of parole
27 under paragraph "a", subparagraph (1).

28 (2) In determining which sentence to impose, the
29 court shall consider all circumstances including but
30 not limited to the following:

31 (a) The impact of the offense on each victim, as
32 defined in section 915.10, through the use of a victim
33 impact statement, as defined in section 915.10, under
34 any format permitted by section 915.13. The victim
35 impact statement may include comment on the sentence
36 of the defendant.

37 (b) The impact of the offense on the community.

38 (c) The threat to the safety of the public or any
39 individual posed by the defendant.

40 (d) The degree of participation in the offense by
41 the defendant.

42 (e) The nature of the offense.

43 (f) The defendant's remorse.

44 (g) The defendant's acceptance of responsibility.

45 (h) The severity of the offense, including any of
46 the following:

47 (i) The commission of the offense while
48 participating in another felony.

49 (ii) The number of victims.

50 (iii) The heinous, brutal, cruel manner of the

1 offense, including whether the offense was the result
2 of torture.

3 (iv) The capacity of the defendant to appreciate
4 the criminality of the conduct.

5 (i) Whether the ability to conform the defendant's
6 conduct with the requirements of the law was
7 substantially impaired.

8 (j) The level of maturity of the defendant.

9 (k) The intellectual and mental capacity of the
10 defendant.

11 (l) The nature and extent of any prior juvenile
12 or criminal history of the defendant, including
13 the success or failure of previous attempts at
14 rehabilitation.

15 (m) The mental history of the defendant.

16 (n) The level of compulsion, duress, or influence
17 exerted upon the defendant, but not to such an extent
18 as to constitute a defense.

19 (o) The likelihood of the commission of further
20 offenses by the defendant.

21 (p) The chronological age of the defendant and the
22 features of youth, including immaturity, impetuosity,
23 and failure to appreciate risks and consequences.

24 (q) The family and home environment that surrounded
25 the defendant.

26 (r) The circumstances of the offense including
27 the extent of the defendant's participation in the
28 conduct and the way familial and peer pressure may have
29 affected the defendant.

30 (s) The incompetencies associated with youth,
31 including but not limited to the defendant's inability
32 to deal with police officers or the prosecution or
33 the defendant's incapacity to assist the defendant's
34 attorney in the defendant's defense.

35 (t) The possibility of rehabilitation.

36 (u) Any other information considered relevant by
37 the sentencing court.

38 (3) The court may consider evidence presented
39 at trial and additional evidence presented by the
40 prosecution or defense at the sentencing hearing. The
41 court shall specify on the record the circumstances
42 considered by the court and the reasons supporting the
43 sentence imposed.

44 Sec. 2. Section 902.1, Code 2014, is amended by
45 adding the following new subsections:

46 NEW SUBSECTION. 3. Notwithstanding subsections
47 1 and 2, a person convicted of a class "A" felony,
48 other than murder in the first degree in violation of
49 section 707.2, who was under the age of eighteen at the
50 time the offense was committed shall be eligible for

1 parole after serving a minimum term of confinement of
2 twenty-five years.

3 NEW SUBSECTION. 4. a. If a person is paroled
4 pursuant to subsection 2 or 3, the person shall be
5 subject to the same set of procedures set out in
6 chapters 901B, 905, 906, and 908, and rules adopted
7 under those chapters for persons on parole.

8 b. Earned time shall not reduce the mandatory
9 minimum term of confinement under this subsection.

10 Sec. 3. RETROACTIVE APPLICABILITY. The sentencing
11 provisions of this Act shall apply to a person who was
12 convicted of a class "A" felony prior to, on, or after
13 the effective date of this Act and who was under the
14 age of eighteen at the time the offense was committed.

15 Sec. 4. EFFECTIVE UPON ENACTMENT. This Act, being
16 deemed of immediate importance, takes effect upon
17 enactment.>

18 2. Title page, line 2, after <juveniles> by
19 inserting <, and including effective date and
20 retroactive applicability provisions>

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